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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/657,997

09/09/2003

Charles Ray Jones

2283

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Charles Ray Jones
13624 Hartsbourne Drive
Germantown, MD 20874-2828

EXAMINER

MCCORMICK, GABRIELLE A

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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12/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/657,997	Applicant(s) JONES, CHARLES RAY	
	Examiner Gabrielle McCormick	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on September 9, 2003.
2. Claims 1-3 are currently pending and have been examined.

Specification

3. The Examiner includes the following information in order to emphasize the required elements of a proper patent application. The areas in **bold** are particularly pertinent to this application.
 - (a) **Title of the Invention:** See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. **The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.**
 - (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
 - (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
 - (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
 - (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
 - (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
 - (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and

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distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

4. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

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5. A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

Claim Objections

6. Claim 2 is objected to because of the following informalities: the claim contains more than one "period". (see claim line 9). Appropriate correction is required.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. § 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title".

8. **Claims 1-3** are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.
9. 35 USC 101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture, *or* composition of matter, *or* any new and useful improvement thereof" (emphasis added). Applicant's claim mentioned above is intended to embrace or overlap **two** different statutory classes of invention as set forth in 35 USC 101. The claims begin by discussing a method (ex. preamble) for improving safety culture, but proceeds to consist of "a means of collecting and communicating". This terminology points to a system, therefore the claim is directed to both a method and a system. Dependent claims 2 and 3 are also directed towards "computer software program or programs". Claim 2 recites elements of the computer software program; claim 3, though directed towards the computer software program, recites method steps. "A claim of this type is precluded by the express language of 35 USC 101 which is drafted so as

to set forth the statutory classes of invention in the alternative only", Ex parte Lyell (17 USPQ2d 1548).

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. **Claims 1-3** are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. The Examiner finds that because claims 1-3 are replete with 35 U.S.C. 112 2nd paragraph indefiniteness rejections, it is difficult if not impossible to completely construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of providing art rejections even though the claim contains 35 U.S.C. 112 2nd paragraph rejections, the claims are construed and the art is applied *as much as practically possible*.
12. The claims alternatively refer to the invention as a method and as a system. This renders the claims indefinite because a method claim must provide for the steps involved with the method/process. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.
13. **Claim 1** contains the following terms and phrases that render the claim vague and indefinite: **Lines 5-6**: "lower level workers and managers": does this refer to anyone reporting either directly or indirectly to the CEO or president of an organization? **Lines 6 and 19**: the term "may" is construed as delineating optional steps or components. **Line 7**: "initiated by any worker or manager": this phrase conflicts with lines 5-6 "lower level workers and managers". It is unclear what the scope of the claim is intended to be. The phrases "initiated...at any time" and "timely submittals" also are conflicting. By claiming an issue can be initiated at *any* time, this can be interpreted to include *months after* the issue occurs. This would contradict a timely submittal.

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Lines 9 and 10: "with or without": nullifies the limitations associated with this phrase. It is unclear whether any limitations are recited in lines 9-11. **Line 11:** "processed for integration and aggregation": the meaning of this phrase is unclear. **Line 14:** "such as": this phrase makes it unclear whether the databases and emails are limitations. **Line 19:** "effective": this term is a relative term which renders the claim indefinite and is not defined by the claim and the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. **Lines 18-22:** It is unclear what is encompassed and how the processing is conducted and to what end. From a grammatical standpoint, it is impossible to ascertain the meaning of the language used. Further processing takes place "to improve organization safety culture, for organizational evaluations, and for stakeholder evaluations at the industry-level, for political division, or for geographical regions." The intended purpose of the further processing is completely unclear.

14. **Claim 2:** **Line 4:** what is "routine computer software means"? **Lines 5 and 11:** how is the parenthetical information intended to limit the claim? **Lines 5, 6 and 10:** "such as": this phrase makes it unclear whether the elements following the phrase are intended to limit the claim.
15. **Claim 3:** **Lines 4-5:** It is unclear what, if any, are the differences between a "sub-organization", "an entire organization" and "a parent organization". It is unclear what a "political entity" is; and how either a "political entity" or a "geographic region" can convey concerns and issues to a computer program. Without the clear understanding of these terms, the scope of the claim cannot be ascertained. **Line 9:** the term "may" is construed as delineating optional steps or components.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. **Claims 1-3** are rejected under 35 U.S.C. 102(e) as being anticipated by Carlson et al. (US Pub. No. 2003/0135378 hereinafter referred to as "Carlson").
12. **Claims 1-3:** Carlson discloses a method and system for reporting and tracking incident reports that affect personnel, production, equipment and the environment. (Abstract). Figure 2 and para. [0040] disclose the computer network, database and user interfaces for operating the method. Referring to para. [0035], Carlson discloses that an incident is reported by a person with knowledge of the incident and is recorded in a database. Carlson defines an incident to be the result of "problems and hazards causing an unexpected or undesirable result relating to production, personnel, equipment, or the environment." The combination of an accessible user interface for reporting incidents provides the means for timely submittals on a case-basis and without requiring any approvals for submission. The incident report includes the originators' names (para. [0051]), therefore reports are submitted without anonymity. The database permit users to perform keyword searches for incident reports as well as determine commonalties among the report for cross-referencing, etc. (para. [0054]), thus performing processing that improves the safety culture, allows for evaluations and is capable of being mined for trends. The system also provides automatic notification that results in alerting supervisory personnel to a new incident and allows the supervisor to review the report, make conclusions and assign corrective action. (para. [0036]) Carlson provides *peer-review and concurrence* in para. [0035] in which

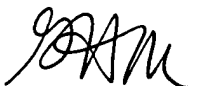
"production personnel involved in the incident..." are part of the reporting process. Thus, the invention is not limited to a single originator, but allows concurrence through active participation by multiple personnel involved. The incident report includes "the personnel", therefore all involved are named and no one "whistleblower" is identified that may result in individual reprisals. Links are provided to facilitate access to the reports. (para. [0055]). In total, Carlson's invention results in an improved organizational safety culture through automated notification to higher levels of authority, follow-through on corrective actions and trend analysis.

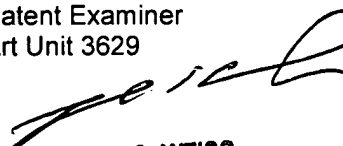
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is 571-270-1828. The examiner can normally be reached on Monday - Thursday (6:00- 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gabrielle McCormick
Patent Examiner
Art Unit 3629


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600